

**NOTICE OF PROPOSED REGULATIONS**

**California Code of Regulations  
Title 15, Crime Prevention and Corrections  
Division 3, Department of Corrections**

**NOTICE IS HEREBY GIVEN** that the Director of the Department of Corrections (CDC), pursuant to rulemaking authority granted by Penal Code (PC) Section 5058, in order to implement, interpret and make specific PC Section 5054, proposes to amend section 3370 in the California Code of Regulations (CCR), Title 15, Division 3, relating to access and release of inmate unit health records.

**PUBLIC HEARING:**

Date and Time: June 28, 2005, 10:00 am - 11:00 am  
Place: Aerojet Complex  
1900 Alabama Ave., Bldg. 1900, JAD 3  
Rancho Cordova, CA 95742  
Purpose: To receive comments about this action.

**PUBLIC COMMENT PERIOD:**

The public comment period will close June 28, 2005 at 5:00 pm. Any person may submit public comments in writing (by mail, by fax, or by e-mail) regarding the proposed changes. To be considered by the Department, comments must be submitted to the Department of Corrections, Regulation and Policy Management Branch, P.O. Box 942883, Sacramento, CA 94283-0001; by fax at (916)358-2636; or by e-mail at [RPMB@executive.corr.ca.gov](mailto:RPMB@executive.corr.ca.gov) before the close of the comment period.

**CONTACT PERSON:**

Please direct any inquiries regarding this action to:

**Timothy M. Lockwood, Chief,  
Regulation and Policy Management Branch  
Department of Corrections  
P.O. Box 942883, Sacramento, CA 94283-0001  
Telephone: (916) 358-1655**

In the event the contact person is unavailable, inquires should be directed to the following back-up person:

**John McClure  
Regulation and Policy Management Branch  
Telephone: (916) 358-2108**

Questions regarding the substance of the proposed regulatory action should be directed to:

**Bryan Synder, Staff Counsel  
Legal Affairs Division  
Telephone: (916) 445-3412.**

**LOCAL MANDATES:**

This action imposes no mandates on local agencies or school districts, or a mandate which requires reimbursement pursuant to Government Code Section 17561.

**FISCAL IMPACT STATEMENT:**

- Cost or savings to any state agency: *None*
- Other non-discretionary cost or savings imposed on local agencies: *None*
- Cost or savings in federal funding to the state: *None*

**EFFECT ON HOUSING COSTS:**

The Department has made an initial determination that the proposed action will have no significant effect on housing costs.

**COST IMPACTS ON REPRESENTATIVE PRIVATE PERSONS OR BUSINESSES:**

The Department is not aware of any cost impacts that a representative private person or business would necessarily incur in reasonable compliance with the proposed action.

**SIGNIFICANT STATEWIDE ADVERSE ECONOMIC IMPACT ON BUSINESS:**

The Department has initially determined that the proposed regulations will not have a significant statewide adverse economic impact directly affecting businesses, including the ability of California businesses to compete with businesses in other states.

**EFFECT ON SMALL BUSINESSES:**

The Department has determined that the proposed regulations may not affect small businesses. It is determined that this action has no significant adverse economic impact on small business, because they are not affected by the internal management of state prisons.

**ASSESSMENTS OF EFFECTS ON JOB AND/OR BUSINESS CREATION, ELIMINATION, OR EXPANSION:**

The Department has determined that the proposed regulation will have no affect on the creation of new or the elimination of existing jobs or businesses within California, or affect the expansion of businesses currently doing business in California.

**CONSIDERATION OF ALTERNATIVES:**

The Department must determine that no reasonable alternative considered by the Department, or that has otherwise been identified and brought to the attention of the Department, would be more effective in carrying out the purpose for which the action is proposed

or would be as effective and less burdensome to affected private persons than the proposed regulatory action.

**AVAILABILITY OF PROPOSED TEXT AND INITIAL STATEMENT OF REASONS:**

The Department has prepared and will make available the text and the Initial Statement of Reasons (ISOR) of the proposed regulations. The rulemaking file for this regulatory action, which contains those items and all information on which the proposal is based (i.e., rulemaking file) is available to the public upon request directed to the Department's contact person. The proposed text, ISOR, and Notice of Proposed Action will also be made available on the Department's website <http://www.corr.ca.gov>.

**AVAILABILITY OF THE FINAL STATEMENT OF REASONS:**

Following its preparation, a copy of the final statement of reasons may be obtained from the Department's contact person.

**AVAILABILITY OF CHANGES TO PROPOSED TEXT:**

After considering all timely and relevant comments received, the Department may adopt the proposed regulations substantially as described in this notice. If the Department makes modifications which are sufficiently related to the originally proposed text, it will make the modified text (with the changes clearly indicated) available to the public for at least 15 days before the Department adopts the regulations as revised. Requests for copies of any modified regulation text should be directed to the contact person indicated in this notice. The Department will accept written comments on the modified regulations for 15 days after the date on which they are made available.

**INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEW:**

PC Section 5054 vests with the Director the supervision, management and control of the prisons, and the responsibility for the care, custody, treatment, training, discipline, and employment of inmates.

PC Section 5058 authorizes the Director to prescribe and amend regulations for the administration of prisons.

This action will amend Title 15, Section 3370, to allow similar access to inmate unit health records. Unit health records are all records of care and treatment rendered to an inmate-patient, including medical, dental, and psychological files. Title 15, Section 3370, would provide that a copy of inmate unit health records is available to the Attorney General, other attorneys for the Department, and the Board of Prison Terms. Also, Section 3370 would allow the California Inspector General to have access to unit health records and case records files. Any outside person or entity that receives case records files or unit health records must maintain the confidentiality of those records, subject to all legal and departmental standards.

The purpose of this amendment is to ensure that these persons and entities have access to the inmate and parolee unit health records and case records files, as necessary for the performance of their duties.

This regulatory package will also amend Title 15, Section 3370, to clarify that inmates and parolees may review their own case records file and unit health records, subject to applicable federal and state law. However, except by means of a valid authorization. Subpoena, or court order, no inmate or parolee shall have access to another's case records file or unit health records. This amendment encodes the existing practices of the Department, in accord with federal and state privacy law.

The amended regulations will:

- Provide a definition of what constitutes a unit health record.
- Establish the only means by which an inmate may have access to another inmate's unit health records.
- Clarify that inmates may review their own case records files and unit health records subject to applicable state and federal law.
- Include unit health records in the restriction of the material allowed to be released of any agency or person outside the department, and to clarify what standards such records are subject to for the integrity and confidentiality of such records.